

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

INVESTIGATIVE ORDER NO. R9-2011-0045

**AN ORDER DIRECTING THE CITY OF EL CAJON
TO SUBMIT A TECHNICAL REPORT PERTAINING TO INVESTIGATION OF
DISCHARGES OF UNTREATED SEWAGE FROM ITS COLLECTION SYSTEM ON
DECEMBER 22 AND 23, 2010, CITY OF EL CAJON, SAN DIEGO COUNTY**

The California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board) finds that:

1. **Legal and Regulatory Authority:** The San Diego Water Board is responsible for enforcement of waste discharge requirements and implementation of the *Water Quality Control Plan for the San Diego Basin* (Basin Plan). This Order is based in part on (1) sections 13260, 13267 and 13304 of the California Water Code (Water Code); (2) applicable state and federal regulations; (3) the Basin Plan adopted by the San Diego Water Board; (4) State Water Resources Control Board (State Water Board) policies and regulations, including State Water Board Resolution No. 68-16 (*Statement of Policy with Respect to Maintaining High Quality of Waters in California*); and (5) relevant standards, criteria, and advisories adopted by other state and federal agencies.
2. **Waste Discharge Requirements:** The City of El Cajon (hereinafter the City) sewage collection system is regulated by State Water Board Order No. 2006-0003-DWQ, *Statewide Waste Discharge Requirements for Sanitary Sewer Systems*, and San Diego Water Board Order No. R9-2007-0005, *Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region*.
3. **Persons Responsible for the Discharge of Wastes:** The City owns and operates its sewage collection system. The system is comprised of approximately 195 miles of gravity sewer lines.
4. **Discharges of Untreated Sewage:** During a six day storm event (December 17 – 23, 2010) the City of El Cajon received approximately 4.53 inches of rain, the equivalent of a four year storm event.¹ The City reported that at 9:45 a.m. on December 22, 2010, staff became aware of a sewage spill from a gravity sewer line in the vicinity of Johnson Avenue and Fessler Street. The San Diego Water Board was first notified of the discharge by phone at 12:45 p.m. on December 22, 2010.

The City reported that approximately 94,000 gallons of untreated sewage was discharged; 92,000 gallons were not recovered, entered the storm drain system and eventually discharged into Forester Creek, a water the state and United States. The City reported that the discharge ended at 2:30 p.m. the same day. The City reported that the cause of the spill was that flow in the sewage collection system exceeded the capacity of the system.

¹ Rainfall data provided by the County of San Diego Hydrology Section in an email to Christopher Means (SDRWQCB) from Cid Tesoro, County of San Diego Department of Public Works dated January 20, 2011.

On January 5, 2011 the San Diego Water Board received an anonymous complaint stating that on December 23, 2010 between 12:00 p.m. and 4:00 p.m. City Public Works staff were observed pumping 50,000 gallons or more of untreated sewage into the City's storm drain system in the vicinity of Vernon Way and Johnson Avenue in the City of El Cajon. San Diego Water Board staff reviewed the Statewide Sanitary Sewer Overflow (SSO) database and as of April 15, 2011, did not find an incident report for this alleged discharge.

5. **Impacted Surface Waters:** Forester Creek is a highly urbanized tributary to the San Diego River which runs through El Cajon and Santee. Untreated sewage entered the City's storm drain system and discharged to Forester Creek, continuing on to the San Diego River and the Pacific Ocean. Forester Creek is listed as impaired for fecal coliform, nitrogen, dissolved oxygen, pH and phosphorus in the 2010 Clean Water Act Section 305(b) Surface Water Quality Assessment and Section 303(d) List of Water Quality Limited Segments.
6. **Violation of Order No. 2006-0003-DWQ:** The discharges of raw sewage described in Finding No. 4 of this Order violate Prohibition C.1 of State Water Board Order No. 2006-0003-DWQ, *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*, which prohibits the discharge of untreated or partially treated wastewater to waters of the United States.
7. **Violation of Order No. R9-2007-0005:** The discharges of raw sewage described in Finding No. 4 of this Order violate Prohibition B.1 of San Diego Water Board Order No. R9-2007-0005, *Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region*, which prohibits the discharge of sewage from a sanitary sewer system at any point upstream of a sewage treatment plant.
8. **Potential Impacts of the Discharge:** Untreated sewage contains a mixture of pollutants and high levels of pathogenic organisms, which could potentially transmit diseases to ecological receptors. Consequently, a discharge of untreated sewage has the potential to adversely affect public health, adversely affect animal and plant life, pollute surface water and/or groundwater, and cause a public nuisance, particularly when untreated sewage is discharged to areas with high public exposure.
9. **Basis for Requiring Reports:** Water Code section 13267 provides that the San Diego Water Board may require dischargers, past dischargers, or suspected dischargers to furnish technical or monitoring reports as the San Diego Water Board may specify, provided that the burden, including costs, of these reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In requiring those reports, the San Diego Water Board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

10. **Need for and Benefit of a Technical Report:** A technical report is needed to enable the San Diego Water Board to effectively evaluate the nature, circumstances, extent, and impacts of the illicit discharges of sewage, and to investigate the complaint of an illicit discharge of sewage to the City's stormdrain system. The burden of providing the required report bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.
11. **California Environmental Quality Act (CEQA) Compliance:** This Order is exempt from the following provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.): enforcement actions taken for the protection of the environment are exempted in accordance with section 15308, Chapter 3, Title 14 of the California Code of Regulations (CCR); enforcement actions taken by a regulatory agency are exempted by the provisions of CEQA pursuant to section 15321(a) (2), Chapter 3, Title 14 of the CCR.
12. **Qualified Professionals:** Qualified professionals are necessary for preparing the technical report required by this Order in order to ensure that information presented in the report is reliable and accurate. Professionals should be qualified, licensed where applicable, and competent and proficient in fields pertinent to the required activities.
13. **Cost Recovery:** Pursuant to Water Code section 13304, and consistent with other statutory and regulatory requirements, including not but limited to Water Code section 13365, the San Diego Water Board is entitled to, and will seek reimbursement for, all reasonable costs incurred by the San Diego Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.

IT IS HEREBY ORDERED, that pursuant to sections 13267 and 13304 of the California Water Code, the City of El Cajon is required to submit a technical report by **5:00 pm on May 31, 2011** presenting results of the investigations of the unauthorized discharges of sewage that occurred on December 22-23, 2010. The technical report must comply with the directives of this Order and include the following information:

A. CONTENTS OF THE TECHNICAL REPORT

Causes and Circumstances of the December 22, 2010 Discharge

1. A complete, detailed explanation of how and when the discharge of untreated sewage from the gravity sewer mains was discovered.
2. Diagrams showing the location of the sewage discharge point(s), including the storm drain systems where the sewage entered and the flow path to the point where the raw sewage entered receiving waters.

3. A detailed report of the total volume of untreated sewage discharged, including the methods and assumptions used in making the determination, including tabular and graphical summaries of the City's daily total influent flows to the San Diego Metropolitan Wastewater Treatment System.
4. A detailed description of the cause(s) for the sewage spill, including any analyses or forensic studies performed by the City or its consultants to determine inadequacies in the collection system's capacity and design.
5. Copies of any City inspection reports/photo documentation relating to the December 22, 2010 sewage discharge.

Response to the December 22, 2010 Discharge

6. A detailed chronological description of all actions taken by the City to investigate, terminate and mitigate the impacts from the discharges. The narrative must include an evaluation of the results of these actions.
7. A copy of the City's Sanitary Sewer Management Plan (SSMP) prepared in accordance with Order No. 2006-0003-DWQ. Please describe how the *Overflow Emergency Response Plan* (Section 6 of SSMP) was implemented during the course of the sewage spill. The response must include a description of any changes/improvements that will be made in the *Overflow Emergency Response Plan* to more effectively respond to future sewage spills.
8. A discussion of any recent training provided to City staff on overflow emergency response measures.
9. A detailed discussion of the *System Evaluation and Capacity Assurance Plan* developed by the City and prepared in accordance with Sections 8 of Order No. 2006-0003-DWQ SSMP requirements. The discussion should include, but not be limited to all required evaluations, design criteria, capacity enhancement measures and capital improvement projects/schedules prepared per Sections 8.a – 8.d of the plan. The response must include a description of any changes/improvements that will be made in the *System Evaluation and Capacity Assurance Plan* to minimize future sewage spills.
10. A detailed discussion of any additional measures the City plans to take to limit inflow/infiltration into the sanitary sewer system as a result of the December 22, 2010 spill.

Monitoring and Analysis

11. A description of all water quality sampling activities conducted by or on behalf of the City associated with the sewage spill, analytical results, and an evaluation of the results.

12. A description of the City's accelerated or additional monitoring provisions developed as part of the Overflow Emergency Response Plan in the City's SSMP (Section 6.f).
13. A detailed location map for the water quality sampling and reference points.
14. Characterization of the quality of the City's influent to the San Diego Metropolitan Wastewater Treatment System for the following chemical constituents: total nitrogen, total dissolved solids, chloride, sulfate, iron, manganese and biological oxygen demand.

Impacts of the Discharge

15. An assessment of the potential short and long term impacts of the discharge on public health, animal and plant communities (including sensitive and/or endangered species), and on the overall ecosystem downstream of the discharge. The assessment must include:
 - a. A summary of all threatened and endangered species located downstream of the spill sites within Forester Creek.
 - b. A description of all observations and sampling activities conducted by or on behalf of the City associated with potential short-term and long-term impacts to human health, vegetation and wildlife from the spill and an evaluation of these impacts.

This assessment must be prepared by a technical professional qualified to evaluate the short and long term impacts of the discharge on ecological receptors.

Potential December 23, 2010 Sewage Discharge

16. The City shall investigate the validity of the allegations contained in the January 5, 2011 anonymous complaint and provide a detailed discussion on the results of the investigation. This discussion should include, but not be limited to:
 - a. Copies of any City employee/ Public Works maintenance crew logs, inspection reports, or other documentation showing City workers having been in the vicinity of the potential discharge as described in Finding No. 4 of this Order.
 - b. Copies of the December 23, 2010 complaint logs for the City's Storm Water Hotline (619-441-1653).
17. Should the City's investigation conclude that a discharge of sewage did occur, the City shall provide all information requested for the December 22, 2010 spill (Directives A.1 - A.15) for the December 23, 2010 discharge as well.

Additional Information

18. Any other pertinent information that will assist the San Diego Water Board in evaluating the nature, circumstances, extent, and impacts of the discharges.

B. PROVISIONS

1. **Use of Registered Professionals:** The City shall provide documentation that any reports required under this Order were prepared under the direction of appropriately qualified professionals. In preparing the technical report required by this Order, any engineering or geologic evaluations and judgments must be performed by or under the direction of registered professionals. A statement of qualifications and registration numbers of the responsible lead professional shall be included in the report submitted by the City. The lead professional shall sign and affix their registration stamp to the report.
2. **Use of Qualified Technical Professionals:** The City shall ensure that plans and reports, required under this Order, are prepared and signed under the direction of technical professionals who are appropriately qualified to evaluate short and long term impacts to ecological receptors.
3. **Laboratory Qualifications:** Unless otherwise permitted by the San Diego Water Board, all analyses shall be conducted at a laboratory certified to perform such analyses by the California Department of Public Health (CDPH).
4. **Laboratory Analytical Reports:** Any report presenting new analytical data is required to include the complete laboratory analytical report(s). The laboratory analytical report must be signed by the laboratory director and contain:
 - a. Complete sample analytical report.
 - b. Complete laboratory quality assurance/quality control (QA/QC) report.
 - c. Discussion of the QA/QC data, and
 - d. A transmittal letter that shall indicate whether or not all the analytical work was supervised by the director of the laboratory, and contain the following statement, "All analyses were conducted at a laboratory certified for such analyses by the CDPH in accordance with current procedures approved by the United States Environmental Protection Agency."

5. **Analytical Methods:** Specific methods of analysis must be identified in the City's monitoring reports. If the City proposes to use methods or test procedures other than those included in the most current version of 40 CFR, Part 136, "*Guidelines Establishing Test Procedures for the Analysis of Pollutants; Procedures for Detection and Quantification*", and State Water Board SWAMP Bioassessment Standard Operating Procedures (SOP's),² then the exact methodology must be submitted for review and approval by the San Diego Water Board prior to use.
6. **Signatory Requirements:** All reports required under this Order shall be signed and certified by either a principal executive officer or ranking elected official or the person with overall responsibility for environmental matters for that municipality.

Certification Statement: Any person signing a document under this provision shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

7. **Report Submittal:** All reports required under this Order shall be submitted to the following address:

Assistant Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

C. **COST RECOVERY**

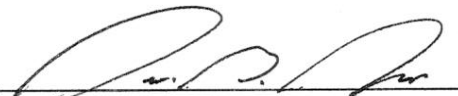
Upon receipt of invoices, and in accordance with instructions therein, the City must reimburse the San Diego Water Board for all reasonable costs incurred by the San Diego Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.

² SWAMP SOP's for benthic macroinvertebrate samples and stream algae samples can be obtained at: <http://swamp.mpsl.mml.calstate.edu/resources-and-downloads/standard-operating-procedures>.

April 18, 2011

D. NOTIFICATIONS

1. **Enforcement Discretion:** The San Diego Water Board reserves its right to take any enforcement action authorized by law for violations of the terms and conditions of this Order.
2. **Enforcement Notification:** Water Code section 13268 (a) (1) provides that any person failing or refusing to furnish technical or monitoring report information as required by Water Code section 13267(b), or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly for an administratively imposed liability of up to \$1,000 per day for each day compliance is not achieved with an Order issued in accordance with subdivision 13268(b).
3. **Requesting Administrative Review by the State Water Board:** Any person affected by this action of the San Diego Water Board may petition the State Water Board to review the action in accordance with section 13320 of the Water Code and CCR Title 23 section 2050. The petition must be received by the State Water Board (Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812) within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.


JAMES G. SMITH
Assistant Executive Officer

18 Apr 11
Date

JGS: jh: cm

CIWQS Place ID	631928
Reg. Measure No	378573
Party ID	32484
Violation ID	887810
SSO Event IDs	759747